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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/668,533
Filing Date: September 23, 2003
Appellant(s): DOUBET, JAMES T.

Marcia Doubet
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 11, 2009 appealing from the
Office action mailed January 9, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Curkendall et al., U. S. Patent Publication No. 2003/0177025

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1 – 19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Curkendall et al. (2003/0177025).**

As per claim 1, Curkendall discloses a method of tracking animal transfers with animal passports, the method comprising ([0003]: via a system, computer program product and method for tracking processing events for a meat animal from its conception to its consumption, by using data entry devices):

creating an animal passport to represent a transfer of animals from a transferor to a transferee ([0003]; via using data entry devices that minimize keyboard entry and multiple interconnected databases such that a particular animal history can provide both quality assurance source verification and performance tracking);

assigning a unique passport identifier to the created animal passport, thereby providing a unique identification of the transfer ([0020]; via it is desirable to automate the identification and data entry in order to reduce expense and to improve accuracy of the data. These devices typically produce either a unique alphanumeric code or a unique decimal code); and

repeating the creating and assigning for each of at least one subsequent transfer of one or more of the animals ([0022]; via there is a need to provide a means for individual animal identification throughout the production cycle and to minimize the difficulty of data entry throughout the industry), wherein the animal passport created for each subsequent transfer also records the unique passport identifier assigned to each most-recent previous transfer of those animals ([0029] discusses complete source verification and performance databases for all key livestock events.).

As per claim 2, Curkendall discloses, wherein each of the animal passports is signed by a transferor and transferee who are parties to each transfer, thereby certifying the transfer represented by the signed animal passport ([0237] discusses data used to

represent a discrete transaction against an animal. The data can be time-stamped which is construed as signing).

As per claim 3, Curkendall further discloses, comprising recording the animal passports in a repository ([0027]; via at different stages of the production cycle, there are different databases, which exist for different business purposes. The rancher will typically maintain his own database, a stockman will have an inventory system, a feedlot will have a management database, and a packer will have its own inventory and management system), that is maintained by a third party that is distinct from each transferor and each transferee who are parties to any of the transfers ([abstract] and [0214] discusses an alliance or national database which is a third party).

As per claim 4, Curkendall further discloses, comprising using the animal passport identifiers to track locations of the animals ([0130]; via each event can have one or more default details associated with it. For instance, the event "LOCATION" might have three different details such as PEN-1, PEN-2, and NORTH 4000, that can be used to record changes in animals' locations).

As per claim 5, Curkendall discloses, wherein the animal passports reflect a complete lifetime of the animals and are therefore usable to track transfers of the

animals throughout their lifetime ([0144]; via the bottom half of the screen shows all events recorded during the animal's lifetime).

As per claim 6, Curkendall discloses, wherein the animal passports reflect a complete lifetime of the animals and are therefore usable to track locations of the animals throughout their lifetime ([0144]; via The bottom half of the screen shows all events recorded during the animal's lifetime).

As per claim 7, Curkendall discloses, wherein the transfers are transfers of ownership ([0395]; via A live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

As per claim 8, Curkendall discloses, wherein the transfers are transfers of possession ([0177]; via in some cases, the stocker or cow-calf operator may retain ownership of the calves at the feedlot, so that there is not a sale at that point).

As per claim 9, Curkendall discloses, wherein at least one of the transfers is a transfer of ownership and at least one of the transfers is a transfer of possession ([0395]; via changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

As per Claim 10, Curkendall discloses, wherein the repeating and assigning are also repeated for subsequent transfers of animal products derived from the animals ([0336]; via regimens allow the user to save a set of events that may be are used repeatedly for a particular group type).

As per Claim 11, Curkendall discloses, wherein the animal passports further specify individual animal identifications of the transferred animals ([0011] discusses tracking individual animals).

As per claim 12, Curkendall discloses, wherein additional animals may be included in one or more of the subsequent transfers, and wherein the animal passport created for such subsequent transfers also record the unique passport identifier assigned to each most-recent previous transfer of those additional animals ([0029]

discusses complete source verification and performance databases for all key livestock events).

As per claim 13, Curkendall discloses, wherein animal passports are created for each transfer during a time of the animals and further comprising:

recording each of the animal passports in a repository maintained by a third party, wherein each of the animal passports further comprises a specification of how many animals are represented by each transfer ([0027]; via at different stages of the production cycle, there are different databases, which exist for different business purposes. The rancher will typically maintain his own database, a stockman will have an inventory system, a feedlot will have a management database, and a packer will have its own inventory and management system);

a location of the animals during a timeframe covered by the animal passport, and an identification of one or more transferors and one or more transferees who are parties to each transfer, wherein the third party is distinct from the transferors and the transferees ([0012]; via recording beginning, ending, and periodic weight measurements and treatments; and recording vaccinations, movement and ownership changes, and other significant events that have occurred in the animal's life in order to track of the success of treatments as well as to eliminate duplicate treatments and [0214] discusses an alliance or national database which is a distinct third party); and

determining a country of origin for one or more selected ones of the animals using a most-recent unique passport identifier associated therewith to determine all locations in which the selected ones have been located throughout their lifetime ([0144]; via the bottom half of the screen shows all events recorded during the animal's lifetime).

As per claim 14, Curkendall discloses, each of the animal passports further comprises a specification of how many animals were transferred in the transfer represented by that animal passport, a location of the animals during a timeframe covered by the animal passport and an identification of one or more transferors and one or more transferees who are parties to that transfer ([0131] discusses core events in the data collection supply chain including identification, location, transfer and origin); and further comprising:

determining, for a selected one of the animals, all locations in which the selected animal has been located throughout its lifetime, using each animal passport associated with the selected animal ([0131] discusses determining animal locations and [0144] discusses recorded events in the animal's lifetime); and

preparing a country of origin claim for the selected animal, using the determined locations, wherein the country of origin claim indicates whether the selected animal has been located only in a selected country throughout the lifetime of the animal ([0363]; via these 16 items support the current reporting needs of the IQBSN to track animal origin, genetics and production information).

As per claim 15, Curkendall discloses, wherein animal passports are created for each transfer during a lifetime of the animals and further comprising ([0012]; via recording beginning, ending, and periodic weight measurements and treatments; and recording vaccinations, movement and ownership changes, and other significant events that have occurred in the animal's life in order to track of the success of treatments as well as to eliminate duplicate treatments):

recording each of the animal passports in a repository, wherein each of the animal passports further comprises a specification of how many animals are represented by each transfer, a location of the animals during a timeframe covered by the animal passport, and an identification of one or more transferors and one or more transferees who are parties to each transfer ([0027]; via at different stages of the production cycle, there are different databases, which exist for different business purposes. The rancher will typically maintain his own database, a stockman will have an inventory system, a feedlot will have a management database, and a packer will have its own inventory and management system);

constructing a chain of transfers for a selected one of the animals using each of the most-recent previous unique passport identifiers recorded on the animal passports associated with the selected animal, thereby determining all locations in which the selected animal has have been located throughout its lifetime ([0012]; via recording

beginning, ending, and periodic weight measurements and treatments; and recording vaccinations, movement and ownership changes, and other significant events that have occurred in the animal's life in order to track of the success of treatments as well as to eliminate duplicate treatments); and

verifying a country of origin claim for the selected animal by comparing the determined locations to one or more locations stated in the country of origin claim ([0363]; via these 16 items support the current reporting needs of the IQBSN to track animal origin, genetics and production information).

As per claim 16, Curkendall discloses, a system for uniquely identifying animals transferred groups, the system comprising:

a unique identifier associated with each transfer of a group of animals ([0205]; via although the data collection system can operate manually with visual animal identification, the preferred operation is with Radio Frequency Identification (RFID) transponders 32 in the form of electronic ear tags, implants, boli or neck or leg collars to provide unique identification for each animal);

a repository for recording the unique identifier of each of the transfers ([0027]; via at different stages of the production cycle, there are different databases, which exist for different business purposes. The rancher will typically maintain his own database, a stockman will have an inventory system, a feedlot will have a management database, and a packer will have its own inventory and management system);

along with a specification of how many animals are in the group and an identification of one or more transferors and one or more transferees who are parties to the transfer ([0027]; via at different stages of the production cycle, there are different databases, which exist for different business purposes. The rancher will typically maintain his own database, a stockman will have an inventory system, a feedlot will have a management database, and a packer will have its own inventory and management system); and

linkage from each subsequent transfer of any of the animals to a most-recent prior transfer of those animals, the linkage comprising a specified association between a new unique identifier associated with each such subsequent transfer and the unique identifier of the prior transfer ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

As per claim 17, Curkendall teaches, wherein the linkage enables tracing transfers of a subset comprising one or more of the transferred animals by accessing, for each of the transfers of the animals in the subset, the specified association between the unique identifier of the most-recent prior transfer and the new unique identifier of the subsequent transfer for that subset ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live

animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

As per claim 18, Curkendall discloses, a method for identifying transfers of groups of animals from birth to death, comprising:

associating a unique identifier with a transfer of animals from an original owner thereof ([0395]; via changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively and fig. 63 depicts the event data);

associating a different unique identifier with each subsequent transfer of the animals or any subset thereof ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively);

linking, at each subsequent transfer, the different unique identifier with the unique identifier associated with a most-recent previous transfer of the animals in that subsequent transfer ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

As per claim 19, Curkendall discloses, wherein additional animals may be included in one or more of the subsequent transfers, and wherein the unique identifier of the most-recent previous transfers of those additional animals is also linked with the different unique identifier of the subsequent transfer ([0395]; via a live animal is uniquely identified with an Animal ID. This Animal ID is common through changes of ownership of the live animal. Changes in ownership of the live animal are recorded as events for both the seller and the buyer where an event detail identifies the buyer and the seller, respectively).

As per claim Claim 21, A method of providing country of origin claims, the method comprising:

completing, for each of a plurality of transfers of one or more animals from transferors to transferees, a passport document to represent the transfer, wherein each of the passport documents has associated therewith a unique passport identifier, thereby providing a unique identifier for the transfer (fig. 63 depicts an electronic document with these features), further comprising:

specifying, on the passport document, a count of the animals transferred, descriptive information for the animals transferred, and a location of the transfer (fig. 63 depicts count, and descriptive information in the event detail field);

specifying, on the passport document, the unique passport identifier associated with any previous passport document completed to represent a previous transfer of the animals transferred (fig. 63 depicts the unique event ID); and

signing the passport document, by the transferor and the transferee, thereby certifying the transfer ([0237] discusses data used to represent a discrete transaction against an animal. The data can be time-stamped which is construed as signing);

recording each of the transfers in a repository maintained by a third party who is distinct from the transferors and the transferees (abstract and [0027] discusses recording by a third party which is the alliance or national databases), further comprising:

creating an entry in the repository for each of the transfers, each of the entries comprising the unique passport identifier associated with the passport document representing that transfer, the count of the animals transferred, the descriptive information for the animals transferred, the location of the transfer, and the unique passport identifier associated with any previous passport document completed to represent a previous transfer of the animals transferred (fig. 63 depicts creating an entry in the database for each of the events); and

using the entries in the repository to determine, for a selected one of the animals, whether a country of origin claim can be made stating that the selected one was always physically located, from its birth to its death, in a particular country by comparing, in each of the entries that pertains to transferring the selected animal, the location to the particular country (fig. 63 and [0131] discuss entries of core events including origin).

(10) Response to Argument

Claim 1:

Appellant disagrees (brief page, 14) of the paragraph [0020] of Curkendall disclosing "assigning a unique passport identifier to the created animal passport, thereby providing a unique identification of the transfer." Applicant further elaborates that "because the device is used for identifying an animal, it necessary follows that the device must always produce the same code/identifier in order to continually and consistently identify that animal."

However, the claim states "a unique identification" and the art states "a unique alphanumeric code or a unique decimal code." Therefore, the examiner respectfully disagrees.

Appellant argues, (brief, page 16), "The individual animal transfer discussed in the cited para. [0020] and in para. [0022] as discussed on p. 15 of the Office Action, clearly does not represent a transfer of multiple animals."

However, [0022] discusses individual animal identification. The each transfer to PEN-1 would be unique, to each animal, because each animal is identified individually, therefore the Examiner respectfully disagrees. In addition, [0032] discusses applying to a group of animals. Therefore, the examiner respectfully disagrees.

Appellant argues (brief, page 18) that the quoted text from para. [0029] Curkendall clearly fails to establish Appellant's reeked "animal passport created for each subsequent transfer also records the unique passport identifier assigned to each most-recent previous transfer ..."

However, paragraph [0029] states, "performance databases for all key livestock events," which would encompass recent transfers. Therefore, the Examiner respectfully disagrees.

Claim 2:

Appellant argues (brief, page 19) that the Office Action fails to establish that Curkendall teaches, "each and every element" as set forth in Claim 2, specifically the element of "each of the animal passports is signed by a transferor and transferee who are parties to the transfer..."

Paragraph [0237] discusses data used to represent a discrete transaction against an animal. The data can be time-stamped which is construed as signing). Further, Applicant does not explicitly disclose signing as a specific type of signature. Therefore the Examiner respectfully disagrees.

Claim 11:

Appellant argues, (brief, page 20), "para. [0011] has no teaching of specifying identifications of multiple animals on anything that can be correlated to Appellant's (single) animal passport. Accordingly, the Office Action reference to tracking individual

animals fails to establish that Curkendall teaches "each and every element" as set forth in Claim 11."

However, [0011] discusses tracking individual animals. Therefore, the Examiner respectfully disagrees.

Claim 12:

Appellant argues, (brief, page 21), that the very-broad statement from para. [0029] which is relied upon in the Office Action clearly does not disclose this recited claim language from Claim 12.

However, [0029] discusses complete source verification and performance databases for all key livestock events. Therefore, the Examiner respectfully disagrees.

Claim 13:

Appellant argues, (brief, page 22) that the Office Action fails to provide any citation for the claim language "wherein animal passports are created for each transfer during a lifetime of animals."

However, [0011] states, "and all other significant events that have occurred in the animal's life." Therefore, the Examiner respectfully disagrees.

Appellant argues, (brief, page 23), that the quoted text from para. [0144] Curkendall clearly fails to establish Appellant's recited "determining a country of origin..."

However, in addition, paragraph [0363] also discloses 16 points including origin, which is construed as including the country as a point of origin. Therefore the Examiner respectfully disagrees

Claim 14:

Appellant argues, (brief, page 24), the cited para. [0131] fails to disclose a passport that includes all of this information and that has a unique passport identifier assigned thereto." Appellant also argues that the art does not teach "preparing a country of origin claim [that] indicates whether the selected animal has been located only in a selected country..."

However, [0363] also discloses 16 points including origin, which is construed as including the country as a point of origin. Therefore the Examiner respectfully disagrees.

Claim 15:

Appellant argues, (brief, page 26) that para. [0027] fails to disclose a passport that includes all of this information and that has unique passport identifier assigned thereto, referring to the antecedent as recited in claim 1."

However, [0636] discloses 16 points including origin, therefore the Examiner respectfully disagrees.

Appellant argues, (brief, page 27) that there is not discussion in para [0012] of "constructing a chain of transfers, or of using each of the most-recent precious unique passport identifiers recorded on the animal passports.

however, [0011] explicitly discusses "movement and ownership changes", therefore, the Examiner respectfully disagrees.

Claim 16:

Appellant argues, (brief, page 29) that Curkendall does not disclose all of the elements recited therein.

However [0032] discusses applying an individual event to a group of animals as well. In addition, fig. 63 also depicts a repository for recording the unique event Id, which is a transfer. Therefore the Examiner respectfully disagrees.

Claim 17:

Appellant argues, (brief, page 35) that para. [0395] fails to establish Appellant's recited claim language with sufficient clarity to prove its existence

However, paragraph [0029] states, "performance databases for all key livestock events," which would encompass recent transfers. Therefore, the Examiner respectfully disagrees.

Claim 18:

Appellant argues, (brief, page 36) that Curkendall does not disclose all of the elements recited therein.

However, fig. 63 depicts data elements which include the event which is the transfer. Therefore, the Examiner respectfully disagrees.

Claim 19:

Appellant argues, (brief, page 41) that the Office Action fails to establish that Curkendall teaches "each and every element" as set forth in claim 19. Appellant also questiones, "where does para [0395] disclose, "additional animals are included" in a subsequent transfer?

However, [0329] discusses "the number of animals in a group and the number of animals to be transferred." Therefore, the Examiner respectfully disagrees.

Claim 21:

Appellant argues, (brief, page 41) that Curkendall does not disclose all of the elements recited therein. Specifically, there is no reference to "count of the animals" in fig. 63. In addition, fig. 63 does not disclose two different passport identifiers and country of origin.

However, [0329] discusses "the number of animals in a group and the number of animals to be transferred," and [0022] discusses several forms of electronic identifiers. Therefore, the Examiner respectfully disagrees.

In addition, paragraph [0363] also discloses 16 points including origin, which is construed as including the country as a point of origin. Therefore the Examiner respectfully disagrees

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Oluseye Iwarere

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